IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN INSOLVENCY

NOTICE OF MOTION NO. 48 OF 2006

IN

PETITION NO. 89 OF 2004

Re: Smt. Saraswati Ramkurti Mudaliar
...Insolvents
vs.
Apna Sahakari Bank Ltd....Petitioning Creditors.

Mrs. P.M. Gavkar for petitioning creditor.
Ms. Tamil Selvi for Insolvent no.1.
Mr. Y.C. Parikh, O.A. present.

CORAM: S.U. KAMDAR, J.

DATED: 18TH APRIL, 2006.

P.C. :

1. Motion is made absolute in terms of prayer clause (a) and (b). Petition is restored. In so far as the main petition is concerned I heard the learned counsel. The only ground made out is that the recovery certificate issued under Section 101 of the Maharashtra Co-operative Societies Act, 1960 was ex-parte. If it is so the judgment

debtor ought to have adopted appropriate legal proceedings to challenge the said certificate. It is not possible go take into the question of validity of recovery certificate in the present insolvency proceedings. In the light of the aforesaid the petition is made absolute in terms of prayer clause (a).

sd/-

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